



Government Support Services – Contracting  
100 Enterprise Place  
Suite # 4  
Dover, DE 19904-8202

June 30, 2010

TO: ALL OFFERORS

FROM: ALISHA MCCULLOUGH  
STATE CONTRACT PROCUREMENT SUPERVISOR

SUBJECT: ADDENDUM TO REQUEST FOR PROPOSAL NO.: GSS10059-MUNICIPAL\_LS

**ADDENDUM #1**

This Addendum is issued to answer vendor questions and provide greater contract detail regarding the referenced Request for Proposal. All other terms and conditions remain the same.

1. Which firm is currently providing (or most recently provided) the Master Lease program as described in the RFP?

The awarded vendors for the most recently awarded Master Lease was Banc of America Leasing and Capital LLC

2. What was the indexing base and formula used in the current (or most recently provided) Master Lease program?

The index used was Percentage Bid x Current Treasury Index.

3. Can the State provide summary average utilization data over the last three years as follows:
  - a. Number of individual agencies and/or departments that utilized the Master Lease Program

Usage information may be found in the attachment.

- b. Number of lease schedules written each year by the categories of: less than \$200,000; between \$200,000 and \$1,500,000; and, greater than \$1,500,000

Usage information may be found in the attachment.

- c. Summary dollars for the categories in b. above

Usage information may be found in the attachment.

4. Can the State provide data on pre-payment experience such as the average number of full and partial pre-payments of lease schedules during the past three years?

FY08 – 15

FY09 – 66

FY10 – 31

5. Will the sample Vendor Services Agreement be a required document for providing the Master Lease Agreement program to the State? (This question is based upon the idea that the Master Lease Agreement typically provides the requirements for the parties in a lease purchase program arrangement)

No.

6. Appendix A; pages 48-65; Does the "Profession Services Agreement" need to be signed and returned with our bid? It does not appear to be pertinent to a municipal lease purchase arrangement.

No

7. No "Master Lease Purchase Agreement" was attached to the RFP. Will you be providing that for bidders or should we submit our own master lease agreement with our bid?

Please submit your own master lease agreement form. The State will negotiate final form with the awarded vendor(s).

8. Section A; pages 2-3 – Would you please clarify requested pricing layers? Are we are to provide tiered interest rates in the chart, and then a formula for indexing using a percentage of increases or decreases to that index? Please describe exactly what you mean by "the most recent weekly rate published" as these government security rates are published daily.

Vendors are encouraged to provide lease pricing based on an index using a like-term security as published in the H.15 Federal Reserve Statistical Release (<http://www.federalreserve.gov/releases/h15/data.htm>), along with an appropriate multiplier indicating an increase or decrease to that index. Each term can have a different multiplier. The State would prefer to use an average from the previous week, as opposed to daily rates, and if any Vendor is willing to offer a discount for larger equipment purchases, please so indicate the amount that a discount might apply to. If any Vendor selects an alternative index, please clearly identify the index selected, specify applicability of the index, provide a public and easily accessible website where the index can be tracked, and be prepared to explain the liquid nature of the index selected.

9. Section B; page 3 - Is the state willing to increase the minimum lease schedule amount? Would you please provide details on average annual number of lease schedules and the average dollar amount of each schedule written during the past 3 years.

Usage information may be found in the attachment.

10. Section C; page 3 - Is the state willing to negotiate the lease pre-payment response time (5 days to provide payoff amount and 5 days to release lien or title)?

Vendors may propose exceptions in their bid responses to required State terms and conditions.

#### Exceptions to the RFP

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee."

11. Section O; page 5 – refinancing; do you mean having us refinance lease debt from another bank or leasing company?

The current lease payment schedules are not under consideration for refinancing at this time. Should the proposed rates for this RFP make refinancing any existing schedule attractive, the State wishes to reserve that right subject to the terms and conditions of the awarded contract(s).

12. Section V5, paragraph (v); pages 27-28; Monthly usage report – is this report expected for each lease schedule? We are unfamiliar with some of the terms used on this report. Can the state provide a sample completed report?

"Sample usage information may be found in the attachment."

13. Section 2 –Scope of services

#### Subsection B

#### Paragraph 1

#### Page 2

#### **B. CONTRACT VALUE:**

Master Municipal Lease/Purchase Agreement (Forward Financing)

The State cannot commit to a minimum amount to be financed through this agreement.

Historically, the State has financed approximately \$15 million dollars annually. The State is currently in the process of exploring new areas of capital equipment expenditure that may be suitable for financing and as a result, there is a possibility that the amount financed annually may increase by approximately \$15 to \$25 million dollars annually for a total of \$50 million. The value of this contract shall not exceed \$50 million.

**Questions: Does the State require a lease proposal in the full amount of \$50 million or \$40 million which would be the total of the \$15 million historical amount plus the \$25 million? (Maximum anticipated increase)**

The State is interested in a proposal from vendors up to \$50.0M.

14. Section 2 -Detailed Requirements

Subsection B

Paragraph 1

Page 3

**B. MINIMUM LEASE:**

The minimum amount to be financed on any transaction under this agreement will be \$5,000.00. In order to meet the \$5,000.00 minimum, the following guidelines will apply: (1) One single piece of equipment must meet the \$5,000.00 minimum. (2) Equipment purchased in multiple quantities may be financed provided each item will cost at least \$1,500.00 and the total of the item meets the \$5,000.00 minimum. Prior approval must be obtained from the Secretary of Finance for any financing equal to or exceeding \$2,000,000 (two million dollars).

**Question: Would the State consider and be willing to have the minimum amount financed per schedule increased from \$5,000.00 to \$50.0k - \$100.0k? (Minimum lease schedule)**

The State's needs are outlined in the RFP with an established minimum amount financed per schedule identified at \$5,000.00. Vendors may take exception to terms required by the State for the minimum amount financed per schedule understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

15. Section 2 -Detailed Requirements –several points

Subsections- C-E-H-L-O-Q

Paragraph 1

Page 3

**C. LEASE PRE-PAYMENT:**

During the term of any lease covered by this contract the Lessee shall have the option to prepay the outstanding principal balance or portions of the balance on each individual schedule under the Master Lease Purchase Agreement. Prepayment of an individual item(s) does not invalidate, or change the terms or conditions of an individual lease tranche. Instead prepayment of an individual item(s) on a lease schedule reduces the regular payment amount by the removal of said item(s). The Office of Management and Budget/Government Support Services shall not accept a proposal which stipulates pre-payment fees and/or penalties.

**Questions:**

**1-What are the historical results in terms of the number of pre-payment requests the State generally makes under the lease facility?**

FY08 – 15

FY09 – 66

FY10 – 31

**2- Would the Office of management and Budget/Government Support Services allow for pre-payment conditions that require a minimum lease maturity period? As an example; under a 60 month schedule no prepayment until month 39 or 65% of the lease term has matured.**

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

Page 4

**16. E. ASSIGNMENT BY LESSOR:**

The Lessor may not assign its obligation for any lease covered by this contract, unless the Lessor receives the express consent of the Office of Management and Budget/Government Support Services.

**Questions:**

**1-Would the state agree to not unreasonably withhold such consent?**

The State may consider including this language if proposed provided that all material terms and conditions of such assignment remain the same. The State must still maintain final decision regarding assignment.

**2 – Would the State agree to a fixed percentage of 25% of the leases which the Lessor has funded to be assigned without the requirement of consent?**

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

**17. H. TAX EXEMPT:**

The State of Delaware and any entity eligible to obtain financing under the terms and conditions of this contract, is tax exempt and shall not be required to pay any tax, fee or charge above and beyond payment of principal and interest, with the possible exception of costs associated with an escrow account.

Federal Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) and 8038-GC (Information return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales) must be completed and filed with each Lease/Purchase Agreement. It is the responsibility of the Lessee to make sure this form is properly completed and sent to the Awarded Vendor.

Lease financing will be made on a tax-exempt basis for equipment used in essential government service. **In addition, the State will require flexibility to accommodate lease financing for equipment determined to be tax-exempt for certain private activity purposes, subject to revised pricing.**

Third paragraph of this section  
Page 4 –continued

**Question:**

**Please explain what is meant or being asked in sentence 2 of the third paragraph above?**

The General Assembly has authorized other State entities, including the Port of Wilmington, to participate in the State's master lease arrangements to certain limits. For the Port's equipment needs outside of those limits, please indicate 1) a willingness to accommodate leasing such equipment, which has been determined to be tax-exempt for private activity purposes, and 2) indicate, if possible, appropriate pricing levels.

18. Page 5

**Section: L. RESERVATION OR HOLD ON MONETARY REQUESTS**

The Lessee shall be able to request the Awarded Vendor place a —hold|| on requested funds for an anticipated schedule for a set amount where delivery and acceptance of the items will not occur for an extended period of time. Such a —hold|| shall have no associated fees, costs or penalties.

**Question:**

**Please explain what a hold on requested funds means and what time periods generally are associated with this request?**

This section relates to encumbering the available funds off the remaining line of credit so that items may be manufactured. As an example the State may wish to procure x# of vehicles that have not yet been built and would "encumber" the available funds under this contract so that they are not used for other transactions. This could be significant if the State was required to procure several large pieces of equipment and the limit was close to maximum.

19. Page 5 –continued

**O. REFINANCING:**

It should be indicated in your proposal if refinancing of existing or future lease/purchases is permissible. All additional terms and costs should be included in the response.

**Questions:**

**1- What does the State contemplate refinancing from existing or future leases?**

The current lease payment schedules are not under consideration for refinancing at this time. Should the proposed rates for this RFP make refinancing any existing schedule attractive, the State wishes to reserve that right subject to the terms and conditions of the awarded contract(s).

**2- Is this simply a right to request refinancing for lower rates if available?**

If the cost of financing drops significantly enough to make refinancing existing schedules worthwhile the State wishes to reserve the right to do so.

**Q. STATE OF DELAWARE LEASE PROCEDURES:**

The following activities have proven to be very beneficial to the State. It is strongly suggested that the adhere as closely as possible to these procedures. The Vendor shall state in writing any exceptions in the proposal and the basis upon which the Vendor is taking exception.

1. Obtain firm pricing/delivery of the Equipment to be leased. (Title 29, Chapter 69 of Delaware Code regarding procurement laws and purchasing procedures must be followed by the State agency.)

2. Complete the Form of the Equipment Acquisition Request and fax to the Awarded Vendor for equipment approval, upon approval, the Awarded Vendor will forward the original Lease documents to the address provided by the requesting entity. Once the contract is signed, Government Support Services, will provide a list of authorized representatives that have the authority to submit Equipment Acquisition Request.

3. All appropriate forms must be completed and signed by the person authorized to enter into a contract for the Lessee.

4. For Non-Executive Agency use of the Master Municipal Lease/Purchase Agreement the leasing entity shall provide through their legal counsel an —Opinion of Counsel|| letter in the form provided in the MMLPA. In addition, the entity will be required to provide this letter as well as all lease documents and required proof of insurance and indemnification clause to the Office of Management and Budget, Government Support Services Deputy Attorney General for review. The lease may not proceed forward without GSS's final approval of the transaction.

5. The "Certificate of Acceptance|| must be completed at the time that the Equipment is received, inspected, and accepted.

6. The interest rate and lease terms become effective on the day of acceptance. An estimated monthly, quarterly, semi-annual, or annual payment can be received at any time by contacting the Awarded Vendor. Once the Equipment has been accepted and the interest rate and payment schedule established, a Purchase Order then must be issued to the Awarded Vendor.

7. All documents must be submitted to the Awarded Vendor prior to the Lease Acceptance.

**Question:**

**In item # 6 above would the State approve a modification to set interest rates 3 days prior to acceptance?**

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

21. **5. General Contract Terms**

**Subsection –e**

**Page 21**

**e. Indemnification**

**1. General Indemnification.**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, ole or part, to the State, its employees or agents.

**Question:**

**Please explain how, why or if this section applies to a financial institution providing a lease proposal?**

The indemnification would only be for actions by the vendor or its representatives (i.e. If a vendor committed some fraud or came to a site to inspect the items that is covered or going to be covered and harmed someone). Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

22. **Section:**

**T. RFP Submissions**

**Subsection a**

**Page 16**

**a. RFP Award Notifications**

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the lowest bid of the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the Awarded Vendor will be invited to negotiate a contract with the State of Delaware; remaining Vendors will be notified in writing of their selection status.

**Question: Does the last sentence of this section mean the awarded vendor will be invited to negotiate their own form of Master Lease Agreement with the State or use an already established lease agreement, we are not clear on this issue?**

Negotiations as to form and all documentation required to process a transaction under this contract will be concluded prior to the State issuing a final award. Once that final award has been made there will be no further negotiations. After final award the non successful vendors will be notified in writing that they were not successful.



23. **Section:**  
**U. RFP Evaluation Process**

**Subsection 2. Proposal Selection Criteria**

**Page 17**

The Team reserves the right to:

Select for contract or for negotiations a proposal other than that with lowest costs.

Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP. Waive or modify any information, irregularity, or inconsistency in proposals received. Request modification to proposals from any or all vendors during the contract review and negotiation. Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time. Select more than one vendor pursuant to 29 Del. C. §6986. Such selection will be based on the following criteria:

The state may choose to award to multiple vendors based on rates offered, markets, industry specific incentives, lending ceilings and flexibility provided to the state in all transactions.

**Question:**

Historically how many vendors based on the criteria contained in the last sentence of this section has the State used to provide leasing services? Further what has been the volume by each vendor under the program for the past 3-5 years?

Usage information may be found in the attachment.

24. Section II A, Tiered Lease Rates – what types of assets is the State expecting to finance using a 15 year term?

Assets that have a useful life cycle in the 15+ year range.

25. Same Section – will the State declare that all equipment/assets financed under the MMLP as “essential”?

Yes.

26. Section II i, page 4 Opinion of Counsel – will the State provide an opinion of counsel for each leasing schedule?

Yes.

27. Section II p, page 6 Proof of Insurance – will the proof of insurance coverage provided by the State name the Vendor/Lessor as additional insured for liability purposes and loss payee for property loss?

The State should not be named an additional insured on the policies. The State will not procure any policies to protect the Lessor.

28. Section Q, page 6 State of Delaware Lease Procedures – will the Vendor/Lessor be allowed to use its own form of Master Municipal Lease/Purchase Agreement, subject to review and approval by the State?

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

29. Section V 1 b, page 18 General Information – The State reserves the right to incorporate standard State contractual provisions into any contract. Is a copy of these "standard State contractual provisions" available for the Vendor/Lessor to review in advance?

Standard State contractual provisions are available at the website here:  
<http://gss.omb.delaware.gov/contracting/agencyboiler.shtml>. This list is in no way intended to limit the negotiation ability by the State to include provisions determined to be beneficial to the State.

30. Section V 1 a, page 18 General Information – can the Awarded Vendor elect not to extend the contract at the end of the initial 2 years?

Exercising a term renewal is upon the agreement of the State and the awarded vendor(s).

31. Section number – II – Detailed Requirements  
Paragraph number- A- Tiered Leasing Rates  
Page number- 2

Would Delaware be open to a minimum schedule size of \$250,000?

No. The State's needs are outlined in the RFP with an established minimum amount financed per schedule identified at \$5,000.00. Vendors may take exception to terms required by the State for the minimum amount financed per schedule understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

32. Section number – II- Introduction  
Paragraph number- B  
Page number- 2

"The State cannot commit to a minimum amount to be financed...."

Can you expand upon usage over the past two years? We would like to know the historical total dollar amount, transaction sizes broken out into buckets by number of takedowns and dollar amount? How many total transactions have historically occurred during one year? Also, how many takedowns and what total dollar amount have funded from \$5,000-\$100,000?

Usage information may be found in the attachment.

33. Section number – II- Introduction  
Paragraph number- B  
Page number- 2

"The State cannot commit to a minimum amount to be financed...."

Could you expand upon your future usage and if it will follow the historic usage?

The State cannot make any guarantees to future usage.

34. Section number – II- V Contract Terms and Conditions

Paragraph number- 1-A

Page number- 18

"The term of the contract between the Awarded Vendor and the State shall be for two (2) years with two (2) year extensions for a period of one (1) year for each extension.

Are all extensions conditional on the mutual agreement of Lessor and Lessee?

Exercising a term renewal is upon the agreement of the State and the awarded vendor(s).

35. Section Number – Appendix A

Page number 48-

Although Appendix A, "Standard Professional Services Agreement," was provided, no Master Lease or Lease Schedule was. If it is intended for Lessor to use Lessee's documentation can you please provide it?

Please submit your own master lease agreement form. The State will negotiate final form with the awarded vendor(s).

36. Please provide a 2 year history of transactions financed including size and payment frequency.

Usage information may be found in the attachment.

37. We would intend on assigning the leases to a corporate trustee. Please describe the State's willingness to consent to the assignment by lessor.

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

38. Would the State consider using only escrow funding to reduce the number of financing transactions while still providing the State with the ability to pay vendors as required?

The State's needs are outlined in the RFP. Vendors may take exception to terms required by the State understanding that those exceptions may or may not be accepted. If not accepted the State may deem the proposal non responsive.

